

Assembly Bill No. 116

Passed the Assembly July 14, 2011

Chief Clerk of the Assembly

Passed the Senate July 7, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 830.5, 1170, 3000.08, and 3000.09 of, to amend and add the heading of Title 4.5 (commencing with Section 13600) of Part 4 of, to add and repeal Sections 13810, 13811, and 13813 of, and to repeal and add Sections 13600, 13601, 13602, 13603, 13800, and 13812 of, the Penal Code, to amend Section 1731.5 of, the Welfare and Institutions Code, to amend Section 83 of Senate Bill 92 of the 2011–12 Regular Session, and to amend Section 69 of Assembly Bill 117 of the 2011–12 Regular Session, relating to criminal justice realignment, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL’S DIGEST

AB 116, Committee on Budget. Criminal justice realignment.

Existing law creates the California Council on Criminal Justice with certain powers and duties. SB 92 of the 2011–12 Regular Session would eliminate the California Council on Criminal Justice and assign its powers and duties to the Board of State and Community Corrections.

This bill would restore the California Council on Criminal Justice and delay the elimination and assignment of its powers and duties to the Board of State and Community Corrections until July 1, 2012. The bill would also make other specified provisions amended by SB 92 related to the Gang Violence Suppression Program within the Board of State and Community Corrections operative on July 1, 2012.

Under existing law, the Corrections Standards Authority is responsible for developing, approving, and monitoring standards for the selection and training of state correctional peace officers and apprentices. SB 92 of the 2011–12 Regular Session created the Commission on Correctional Peace Officer Standards Training to succeed to these functions.

This bill would instead make those provisions operative on July 1, 2012. The bill would also make certain provisions related to Community Corrections Performance Incentives funds and local Community Corrections Partnerships, as amended by AB 117 of

the 2011–12 Regular Session, operative on the day this act becomes operative.

Existing law, as added by AB 117, provides that persons released from state prison on or after July 1, 2013, after serving a prison term or whose sentence has been deemed served, for any of specified crimes shall be subject to parole supervision by the Department of Corrections and Rehabilitation and the jurisdiction of the court in the county where the parolee is released or resides for the purpose of hearing petitions to revoke parole and impose a term of custody.

This bill would also provide that the above provision applies to a person released from state prison prior to July 1, 2013. Furthermore, parolees subject to these provisions who are being held for a parole violation in a county jail on July 1, 2013, shall be subject to the jurisdiction of the Board of Parole Hearings.

Existing law, as added by AB 117, provides rules for parolees who were paroled from state prison prior to October 1, 2011, effective only until October 1, 2014, and on that date and thereafter any person, who is not on parole for specified crimes or within a specified classification, shall be discharged from parole.

This bill would make these rules effective indefinitely and delete the provision requiring the discharge from parole as specified above.

Existing law provides that, except as specified, a felony punishable pursuant to certain provisions where the term is not specified in the underlying offense shall be punishable by a term of imprisonment in a county jail for 16 months, or 2 or 3 years. Existing law, as amended by AB 117, provides that a judge, when imposing a sentence pursuant to specified provisions, including provisions other than those provisions referenced above where the term is not specified in the underlying offense, may order the defendant to serve a term in a county jail for a period not to exceed the maximum possible term of confinement or may impose a sentence which includes a period of county jail time and a period of mandatory probation not to exceed the maximum possible sentence.

This bill would narrow the judge's ability to order a sentence pursuant to the provisions above only in cases where a felony is punishable pursuant to the certain provisions referenced above where the term is not specified in the underlying offense.

This bill would appropriate \$1,000 to the Department of Corrections and Rehabilitation for the purpose of state operations. The bill would also make various technical corrections.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 830.5 of the Penal Code, as amended by Section 25 of Assembly Bill 117 of the 2011–12 Regular Session, is amended to read:

830.5. The following persons are peace officers whose authority extends to any place in the state while engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment or as required under Sections 8597, 8598, and 8617 of the Government Code, as amended by Section 44 of Chapter 1124 of the Statutes of 2002. Except as specified in this section, these peace officers may carry firearms only if authorized and under those terms and conditions specified by their employing agency:

(a) A parole officer of the Department of Corrections and Rehabilitation or the Department of Corrections and Rehabilitation, Division of Juvenile Parole operations, probation officer, deputy probation officer, or a board coordinating parole agent employed by the Juvenile Parole Board. Except as otherwise provided in this subdivision, the authority of these parole or probation officers shall extend only as follows:

(1) To conditions of parole, probation, or postrelease community supervision by any person in this state on parole, probation, or postrelease community supervision.

(2) To the escape of any inmate or ward from a state or local institution.

(3) To the transportation of persons on parole, probation, or postrelease community supervision.

(4) To violations of any penal provisions of law which are discovered while performing the usual or authorized duties of his or her employment.

(5) (A) To the rendering of mutual aid to any other law enforcement agency.

(B) For the purposes of this subdivision, “parole agent” shall have the same meaning as parole officer of the Department of Corrections and Rehabilitation or of the Department of Corrections and Rehabilitation, Division of Juvenile Parole operations.

(C) Any parole officer of the Department of Corrections and Rehabilitation, the Department of Corrections and Rehabilitation, Division of Juvenile Parole operations is authorized to carry firearms, but only as determined by the director on a case-by-case or unit-by-unit basis and only under those terms and conditions specified by the director or chairperson. The Department of Corrections and Rehabilitation, Division of Juvenile Justice shall develop a policy for arming peace officers of the Department of Corrections and Rehabilitation, Division of Juvenile Justice who comprise “high-risk transportation details” or “high-risk escape details” no later than June 30, 1995. This policy shall be implemented no later than December 31, 1995.

(D) The Department of Corrections and Rehabilitation, Division of Juvenile Justice shall train and arm those peace officers who comprise tactical teams at each facility for use during “high-risk escape details.”

(b) A correctional officer employed by the Department of Corrections and Rehabilitation or any employee of the Department of Corrections and Rehabilitation, Division of Juvenile Justice having custody of wards or any employee of the Department of Corrections and Rehabilitation designated by the secretary or any correctional counselor series employee of the Department of Corrections and Rehabilitation or any medical technical assistant series employee designated by the secretary or designated by the secretary and employed by the State Department of Mental Health or employee of the Board of Parole Hearings designated by the secretary or employee of the Department of the Youth Authority designated by the secretary or any superintendent, supervisor, or employee having custodial responsibilities in an institution operated by a probation department, or any transportation officer of a probation department.

(c) The following persons may carry a firearm while not on duty: a parole officer of the Department of Corrections and Rehabilitation or the Department of Corrections and Rehabilitation, Division of Juvenile Justice, a correctional officer or correctional counselor employed by the Department of Corrections and

Rehabilitation or any employee of the Department of Corrections and Rehabilitation, Division of Juvenile Justice having custody of wards or any employee of the Department of Corrections and Rehabilitation designated by the secretary. A parole officer of the Juvenile Parole Board may carry a firearm while not on duty only when so authorized by the chairperson of the board and only under the terms and conditions specified by the chairperson. Nothing in this section shall be interpreted to require licensure pursuant to Section 12025. The director or chairperson may deny, suspend, or revoke for good cause a person's right to carry a firearm under this subdivision. That person shall, upon request, receive a hearing, as provided for in the negotiated grievance procedure between the exclusive employee representative and the Department of Corrections and Rehabilitation, the Department of Corrections and Rehabilitation, Division of Juvenile Justice, or the Juvenile Parole Board, to review the director's or the chairperson's decision.

(d) Persons permitted to carry firearms pursuant to this section, either on or off duty, shall meet the training requirements of Section 832 and shall qualify with the firearm at least quarterly. It is the responsibility of the individual officer or designee to maintain his or her eligibility to carry concealable firearms off duty. Failure to maintain quarterly qualifications by an officer or designee with any concealable firearms carried off duty shall constitute good cause to suspend or revoke that person's right to carry firearms off duty.

(e) The Department of Corrections and Rehabilitation shall allow reasonable access to its ranges for officers and designees of either department to qualify to carry concealable firearms off duty. The time spent on the range for purposes of meeting the qualification requirements shall be the person's own time during the person's off-duty hours.

(f) The secretary shall promulgate regulations consistent with this section.

(g) "High-risk transportation details" and "high-risk escape details" as used in this section shall be determined by the secretary, or his or her designee. The secretary, or his or her designee, shall consider at least the following in determining "high-risk transportation details" and "high-risk escape details": protection of the public, protection of officers, flight risk, and violence potential of the wards.

(h) “Transportation detail” as used in this section shall include transportation of wards outside the facility, including, but not limited to, court appearances, medical trips, and interfacility transfers.

(i) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 2. Section 830.5 of the Penal Code, as amended by Section 25.5 of Assembly Bill 117 of the 2011–12 Regular Session, is amended to read:

830.5. The following persons are peace officers whose authority extends to any place in the state while engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment or as required under Sections 8597, 8598, and 8617 of the Government Code, as amended by Section 44 of Chapter 1124 of the Statutes of 2002. Except as specified in this section, these peace officers may carry firearms only if authorized and under those terms and conditions specified by their employing agency:

(a) A parole officer of the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile Parole Operations, probation officer, deputy probation officer, or a board coordinating parole agent employed by the Juvenile Parole Board. Except as otherwise provided in this subdivision, the authority of these parole or probation officers shall extend only as follows:

(1) To conditions of parole, probation, or postrelease community supervision by any person in this state on parole, probation, or postrelease community supervision.

(2) To the escape of any inmate or ward from a state or local institution.

(3) To the transportation of persons on parole, probation, or postrelease community supervision.

(4) To violations of any penal provisions of law which are discovered while performing the usual or authorized duties of his or her employment.

(5) (A) To the rendering of mutual aid to any other law enforcement agency.

(B) For the purposes of this subdivision, “parole agent” shall have the same meaning as parole officer of the Department of

Corrections and Rehabilitation or of the Department of Corrections and Rehabilitation, Division of Juvenile Justice.

(C) Any parole officer of the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile Parole Operations, is authorized to carry firearms, but only as determined by the director on a case-by-case or unit-by-unit basis and only under those terms and conditions specified by the director or chairperson. The Department of Corrections and Rehabilitation, Division of Juvenile Justice, shall develop a policy for arming peace officers of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, who comprise “high-risk transportation details” or “high-risk escape details” no later than June 30, 1995. This policy shall be implemented no later than December 31, 1995.

(D) The Department of Corrections and Rehabilitation, Division of Juvenile Justice, shall train and arm those peace officers who comprise tactical teams at each facility for use during “high-risk escape details.”

(b) A correctional officer employed by the Department of Corrections and Rehabilitation, or of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, having custody of wards or any employee of the Department of Corrections and Rehabilitation designated by the secretary or any correctional counselor series employee of the Department of Corrections and Rehabilitation or any medical technical assistant series employee designated by the secretary or designated by the secretary and employed by the State Department of Mental Health or any employee of the Board of Parole Hearings designated by the secretary or employee of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, designated by the secretary or any superintendent, supervisor, or employee having custodial responsibilities in an institution operated by a probation department, or any transportation officer of a probation department.

(c) The following persons may carry a firearm while not on duty: a parole officer of the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile Justice, a correctional officer or correctional counselor employed by the Department of Corrections and Rehabilitation, or an employee of the Department of Corrections and Rehabilitation, Division of Juvenile Justice,

having custody of wards or any employee of the Department of Corrections and Rehabilitation designated by the secretary. A parole officer of the Juvenile Parole Board may carry a firearm while not on duty only when so authorized by the chairperson of the board and only under the terms and conditions specified by the chairperson. Nothing in this section shall be interpreted to require licensure pursuant to Section 25400. The director or chairperson may deny, suspend, or revoke for good cause a person's right to carry a firearm under this subdivision. That person shall, upon request, receive a hearing, as provided for in the negotiated grievance procedure between the exclusive employee representative and the Department of Corrections and Rehabilitation, Division of Juvenile Justice, or the Juvenile Parole Board, to review the director's or the chairperson's decision.

(d) Persons permitted to carry firearms pursuant to this section, either on or off duty, shall meet the training requirements of Section 832 and shall qualify with the firearm at least quarterly. It is the responsibility of the individual officer or designee to maintain his or her eligibility to carry concealable firearms off duty. Failure to maintain quarterly qualifications by an officer or designee with any concealable firearms carried off duty shall constitute good cause to suspend or revoke that person's right to carry firearms off duty.

(e) The Department of Corrections and Rehabilitation shall allow reasonable access to its ranges for officers and designees of either department to qualify to carry concealable firearms off duty. The time spent on the range for purposes of meeting the qualification requirements shall be the person's own time during the person's off-duty hours.

(f) The secretary shall promulgate regulations consistent with this section.

(g) "High-risk transportation details" and "high-risk escape details" as used in this section shall be determined by the secretary, or his or her designee. The secretary, or his or her designee, shall consider at least the following in determining "high-risk transportation details" and "high-risk escape details": protection of the public, protection of officers, flight risk, and violence potential of the wards.

(h) "Transportation detail" as used in this section shall include transportation of wards outside the facility, including, but not

limited to, court appearances, medical trips, and interfacility transfers.

(i) This section is operative January 1, 2012.

SEC. 3. Section 1170 of the Penal Code, as amended by Section 27 of Assembly Bill 117 of the 2011–12 Regular Session, is amended to read:

1170. (a) (1) The Legislature finds and declares that the purpose of imprisonment for crime is punishment. This purpose is best served by terms proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances. The Legislature further finds and declares that the elimination of disparity and the provision of uniformity of sentences can best be achieved by determinate sentences fixed by statute in proportion to the seriousness of the offense as determined by the Legislature to be imposed by the court with specified discretion.

(2) Notwithstanding paragraph (1), the Legislature further finds and declares that programs should be available for inmates, including, but not limited to, educational programs, that are designed to prepare nonviolent felony offenders for successful reentry into the community. The Legislature encourages the development of policies and programs designed to educate and rehabilitate nonviolent felony offenders. In implementing this section, the Department of Corrections and Rehabilitation is encouraged to give priority enrollment in programs to promote successful return to the community to an inmate with a short remaining term of commitment and a release date that would allow him or her adequate time to complete the program.

(3) In any case in which the punishment prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison of any specification of three time periods, the court shall sentence the defendant to one of the terms of imprisonment specified unless the convicted person is given any other disposition provided by law, including a fine, jail, probation, or the suspension of imposition or execution of sentence or is sentenced pursuant to subdivision (b) of Section 1168 because he or she had committed his or her crime prior to July 1, 1977. In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council. The court, unless it determines that there are circumstances in mitigation of the

punishment prescribed, shall also impose any other term that it is required by law to impose as an additional term. Nothing in this article shall affect any provision of law that imposes the death penalty, that authorizes or restricts the granting of probation or suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life. In any case in which the amount of preimprisonment credit under Section 2900.5 or any other provision of law is equal to or exceeds any sentence imposed pursuant to this chapter, the entire sentence shall be deemed to have been served and the defendant shall not be actually delivered to the custody of the secretary. The court shall advise the defendant that he or she shall serve a period of parole and order the defendant to report to the parole office closest to the defendant's last legal residence, unless the in-custody credits equal the total sentence, including both confinement time and the period of parole. The sentence shall be deemed a separate prior prison term under Section 667.5, and a copy of the judgment and other necessary documentation shall be forwarded to the secretary.

(b) When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the choice of the appropriate term shall rest within the sound discretion of the court. At least four days prior to the time set for imposition of judgment, either party or the victim, or the family of the victim if the victim is deceased, may submit a statement in aggravation or mitigation. In determining the appropriate term, the court may consider the record in the case, the probation officer's report, other reports, including reports received pursuant to Section 1203.03, and statements in aggravation or mitigation submitted by the prosecution, the defendant, or the victim, or the family of the victim if the victim is deceased, and any further evidence introduced at the sentencing hearing. The court shall select the term which, in the court's discretion, best serves the interests of justice. The court shall set forth on the record the reasons for imposing the term selected and the court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed under any provision of law. A term of imprisonment shall not be specified if imposition of sentence is suspended.

(c) The court shall state the reasons for its sentence choice on the record at the time of sentencing. The court shall also inform the defendant that as part of the sentence after expiration of the

term he or she may be on parole for a period as provided in Section 3000.

(d) When a defendant subject to this section or subdivision (b) of Section 1168 has been sentenced to be imprisoned in the state prison and has been committed to the custody of the secretary, the court may, within 120 days of the date of commitment on its own motion, or at any time upon the recommendation of the secretary or the Board of Parole Hearings, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he or she had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. The resentence under this subdivision shall apply the sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(e) (1) Notwithstanding any other law and consistent with paragraph (1) of subdivision (a), if the secretary or the Board of Parole Hearings or both determine that a prisoner satisfies the criteria set forth in paragraph (2), the secretary or the board may recommend to the court that the prisoner's sentence be recalled.

(2) The court shall have the discretion to resentence or recall if the court finds that the facts described in subparagraphs (A) and (B) or subparagraphs (B) and (C) exist:

(A) The prisoner is terminally ill with an incurable condition caused by an illness or disease that would produce death within six months, as determined by a physician employed by the department.

(B) The conditions under which the prisoner would be released or receive treatment do not pose a threat to public safety.

(C) The prisoner is permanently medically incapacitated with a medical condition that renders him or her permanently unable to perform activities of basic daily living, and results in the prisoner requiring 24-hour total care, including, but not limited to, coma, persistent vegetative state, brain death, ventilator-dependency, loss of control of muscular or neurological function, and that incapacitation did not exist at the time of the original sentencing.

The Board of Parole Hearings shall make findings pursuant to this subdivision before making a recommendation for resentence or recall to the court. This subdivision does not apply to a prisoner sentenced to death or a term of life without the possibility of parole.

(3) Within 10 days of receipt of a positive recommendation by the secretary or the board, the court shall hold a hearing to consider whether the prisoner's sentence should be recalled.

(4) Any physician employed by the department who determines that a prisoner has six months or less to live shall notify the chief medical officer of the prognosis. If the chief medical officer concurs with the prognosis, he or she shall notify the warden. Within 48 hours of receiving notification, the warden or the warden's representative shall notify the prisoner of the recall and resentencing procedures, and shall arrange for the prisoner to designate a family member or other outside agent to be notified as to the prisoner's medical condition and prognosis, and as to the recall and resentencing procedures. If the inmate is deemed mentally unfit, the warden or the warden's representative shall contact the inmate's emergency contact and provide the information described in paragraph (2).

(5) The warden or the warden's representative shall provide the prisoner and his or her family member, agent, or emergency contact, as described in paragraph (4), updated information throughout the recall and resentencing process with regard to the prisoner's medical condition and the status of the prisoner's recall and resentencing proceedings.

(6) Notwithstanding any other provisions of this section, the prisoner or his or her family member or designee may independently request consideration for recall and resentencing by contacting the chief medical officer at the prison or the secretary. Upon receipt of the request, the chief medical officer and the warden or the warden's representative shall follow the procedures described in paragraph (4). If the secretary determines that the prisoner satisfies the criteria set forth in paragraph (2), the secretary or board may recommend to the court that the prisoner's sentence be recalled. The secretary shall submit a recommendation for release within 30 days in the case of inmates sentenced to determinate terms and, in the case of inmates sentenced to indeterminate terms, the secretary shall make a recommendation to the Board of Parole Hearings with respect to the inmates who have applied under this section. The board shall consider this information and make an independent judgment pursuant to paragraph (2) and make findings related thereto before rejecting

the request or making a recommendation to the court. This action shall be taken at the next lawfully noticed board meeting.

(7) Any recommendation for recall submitted to the court by the secretary or the Board of Parole Hearings shall include one or more medical evaluations, a postrelease plan, and findings pursuant to paragraph (2).

(8) If possible, the matter shall be heard before the same judge of the court who sentenced the prisoner.

(9) If the court grants the recall and resentencing application, the prisoner shall be released by the department within 48 hours of receipt of the court's order, unless a longer time period is agreed to by the inmate. At the time of release, the warden or the warden's representative shall ensure that the prisoner has each of the following in his or her possession: a discharge medical summary, full medical records, state identification, parole medications, and all property belonging to the prisoner. After discharge, any additional records shall be sent to the prisoner's forwarding address.

(10) The secretary shall issue a directive to medical and correctional staff employed by the department that details the guidelines and procedures for initiating a recall and resentencing procedure. The directive shall clearly state that any prisoner who is given a prognosis of six months or less to live is eligible for recall and resentencing consideration, and that recall and resentencing procedures shall be initiated upon that prognosis.

(f) Notwithstanding any other provision of this section, for purposes of paragraph (3) of subdivision (h), any allegation that a defendant is eligible for state prison due to a prior or current conviction, sentence enhancement, or because he or she is required to register as a sex offender shall not be subject to dismissal pursuant to Section 1385.

(g) A sentence to state prison for a determinate term for which only one term is specified, is a sentence to state prison under this section.

(h) (1) Except as provided in paragraph (3), a felony punishable pursuant to this subdivision where the term is not specified in the underlying offense shall be punishable by a term of imprisonment in a county jail for 16 months, or two or three years.

(2) Except as provided in paragraph (3), a felony punishable pursuant to this subdivision shall be punishable by imprisonment in a county jail for the term described in the underlying offense.

(3) Notwithstanding paragraphs (1) and (2), where the defendant has a prior or current felony conviction for a serious felony described in subdivision (c) of Section 1192.7, a violent felony described in subdivision (c) of Section 667.5, is required to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1, or is convicted of a crime and as part of the sentence an enhancement pursuant to Section 186.11 is imposed, an executed sentence for a felony punishable pursuant to this subdivision shall be served in state prison.

(4) Nothing in this subdivision shall be construed to prevent other dispositions authorized by law, including pretrial diversion, deferred entry of judgment, or an order granting probation pursuant to Section 1203.1.

(5) A judge, when imposing a sentence pursuant to paragraph (1), may order the defendant to serve a term in a county jail for a period not to exceed the maximum possible term of confinement or may impose a sentence that includes a period of county jail time and a period of mandatory probation not to exceed the maximum possible sentence.

(6) The sentencing changes made by the act that added this subdivision shall be applied prospectively to any person sentenced on or after October 1, 2011.

(i) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 4. Section 1170 of the Penal Code, as amended by Section 28 of Assembly Bill 117 of the 2011–12 Regular Session, is amended to read:

1170. (a) (1) The Legislature finds and declares that the purpose of imprisonment for crime is punishment. This purpose is best served by terms proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances. The Legislature further finds and declares that the elimination of disparity and the provision of uniformity of sentences can best be achieved by determinate sentences fixed by statute in proportion

to the seriousness of the offense as determined by the Legislature to be imposed by the court with specified discretion.

(2) Notwithstanding paragraph (1), the Legislature further finds and declares that programs should be available for inmates, including, but not limited to, educational programs, that are designed to prepare nonviolent felony offenders for successful reentry into the community. The Legislature encourages the development of policies and programs designed to educate and rehabilitate nonviolent felony offenders. In implementing this section, the Department of Corrections and Rehabilitation is encouraged to give priority enrollment in programs to promote successful return to the community to an inmate with a short remaining term of commitment and a release date that would allow him or her adequate time to complete the program.

(3) In any case in which the punishment prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison of any specification of three time periods, the court shall sentence the defendant to one of the terms of imprisonment specified unless the convicted person is given any other disposition provided by law, including a fine, jail, probation, or the suspension of imposition or execution of sentence or is sentenced pursuant to subdivision (b) of Section 1168 because he or she had committed his or her crime prior to July 1, 1977. In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council. The court, unless it determines that there are circumstances in mitigation of the punishment prescribed, shall also impose any other term that it is required by law to impose as an additional term. Nothing in this article shall affect any provision of law that imposes the death penalty, that authorizes or restricts the granting of probation or suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life. In any case in which the amount of preimprisonment credit under Section 2900.5 or any other provision of law is equal to or exceeds any sentence imposed pursuant to this chapter, the entire sentence shall be deemed to have been served and the defendant shall not be actually delivered to the custody of the secretary. The court shall advise the defendant that he or she shall serve a period of parole and order the defendant to report to the parole office closest to the defendant's last legal residence, unless the in-custody credits equal

the total sentence, including both confinement time and the period of parole. The sentence shall be deemed a separate prior prison term under Section 667.5, and a copy of the judgment and other necessary documentation shall be forwarded to the secretary.

(b) When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the court shall order imposition of the middle term, unless there are circumstances in aggravation or mitigation of the crime. At least four days prior to the time set for imposition of judgment, either party or the victim, or the family of the victim if the victim is deceased, may submit a statement in aggravation or mitigation to dispute facts in the record or the probation officer's report, or to present additional facts. In determining whether there are circumstances that justify imposition of the upper or lower term, the court may consider the record in the case, the probation officer's report, other reports, including reports received pursuant to Section 1203.03, and statements in aggravation or mitigation submitted by the prosecution, the defendant, or the victim, or the family of the victim if the victim is deceased, and any further evidence introduced at the sentencing hearing. The court shall set forth on the record the facts and reasons for imposing the upper or lower term. The court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed under any provision of law. A term of imprisonment shall not be specified if imposition of sentence is suspended.

(c) The court shall state the reasons for its sentence choice on the record at the time of sentencing. The court shall also inform the defendant that as part of the sentence after expiration of the term he or she may be on parole for a period as provided in Section 3000.

(d) When a defendant subject to this section or subdivision (b) of Section 1168 has been sentenced to be imprisoned in the state prison and has been committed to the custody of the secretary, the court may, within 120 days of the date of commitment on its own motion, or at any time upon the recommendation of the secretary or the Board of Parole Hearings, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he or she had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. The resentence under this subdivision shall apply the

sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(e) (1) Notwithstanding any other law and consistent with paragraph (1) of subdivision (a), if the secretary or the Board of Parole Hearings or both determine that a prisoner satisfies the criteria set forth in paragraph (2), the secretary or the board may recommend to the court that the prisoner's sentence be recalled.

(2) The court shall have the discretion to resentence or recall if the court finds that the facts described in subparagraphs (A) and (B) or subparagraphs (B) and (C) exist:

(A) The prisoner is terminally ill with an incurable condition caused by an illness or disease that would produce death within six months, as determined by a physician employed by the department.

(B) The conditions under which the prisoner would be released or receive treatment do not pose a threat to public safety.

(C) The prisoner is permanently medically incapacitated with a medical condition that renders him or her permanently unable to perform activities of basic daily living, and results in the prisoner requiring 24-hour total care, including, but not limited to, coma, persistent vegetative state, brain death, ventilator-dependency, loss of control of muscular or neurological function, and that incapacitation did not exist at the time of the original sentencing.

The Board of Parole Hearings shall make findings pursuant to this subdivision before making a recommendation for resentence or recall to the court. This subdivision does not apply to a prisoner sentenced to death or a term of life without the possibility of parole.

(3) Within 10 days of receipt of a positive recommendation by the secretary or the board, the court shall hold a hearing to consider whether the prisoner's sentence should be recalled.

(4) Any physician employed by the department who determines that a prisoner has six months or less to live shall notify the chief medical officer of the prognosis. If the chief medical officer concurs with the prognosis, he or she shall notify the warden. Within 48 hours of receiving notification, the warden or the warden's representative shall notify the prisoner of the recall and resentencing procedures, and shall arrange for the prisoner to designate a family member or other outside agent to be notified as to the prisoner's medical condition and prognosis, and as to the

recall and resentencing procedures. If the inmate is deemed mentally unfit, the warden or the warden's representative shall contact the inmate's emergency contact and provide the information described in paragraph (2).

(5) The warden or the warden's representative shall provide the prisoner and his or her family member, agent, or emergency contact, as described in paragraph (4), updated information throughout the recall and resentencing process with regard to the prisoner's medical condition and the status of the prisoner's recall and resentencing proceedings.

(6) Notwithstanding any other provisions of this section, the prisoner or his or her family member or designee may independently request consideration for recall and resentencing by contacting the chief medical officer at the prison or the secretary. Upon receipt of the request, the chief medical officer and the warden or the warden's representative shall follow the procedures described in paragraph (4). If the secretary determines that the prisoner satisfies the criteria set forth in paragraph (2), the secretary or board may recommend to the court that the prisoner's sentence be recalled. The secretary shall submit a recommendation for release within 30 days in the case of inmates sentenced to determinate terms and, in the case of inmates sentenced to indeterminate terms, the secretary shall make a recommendation to the Board of Parole Hearings with respect to the inmates who have applied under this section. The board shall consider this information and make an independent judgment pursuant to paragraph (2) and make findings related thereto before rejecting the request or making a recommendation to the court. This action shall be taken at the next lawfully noticed board meeting.

(7) Any recommendation for recall submitted to the court by the secretary or the Board of Parole Hearings shall include one or more medical evaluations, a postrelease plan, and findings pursuant to paragraph (2).

(8) If possible, the matter shall be heard before the same judge of the court who sentenced the prisoner.

(9) If the court grants the recall and resentencing application, the prisoner shall be released by the department within 48 hours of receipt of the court's order, unless a longer time period is agreed to by the inmate. At the time of release, the warden or the warden's representative shall ensure that the prisoner has each of the

following in his or her possession: a discharge medical summary, full medical records, state identification, parole medications, and all property belonging to the prisoner. After discharge, any additional records shall be sent to the prisoner's forwarding address.

(10) The secretary shall issue a directive to medical and correctional staff employed by the department that details the guidelines and procedures for initiating a recall and resentencing procedure. The directive shall clearly state that any prisoner who is given a prognosis of six months or less to live is eligible for recall and resentencing consideration, and that recall and resentencing procedures shall be initiated upon that prognosis.

(f) Notwithstanding any other provision of this section, for purposes of paragraph (3) of subdivision (h), any allegation that a defendant is eligible for state prison due to a prior or current conviction, sentence enhancement, or because he or she is required to register as a sex offender shall not be subject to dismissal pursuant to Section 1385.

(g) A sentence to state prison for a determinate term for which only one term is specified, is a sentence to state prison under this section.

(h) (1) Except as provided in paragraph (3), a felony punishable pursuant to this subdivision where the term is not specified in the underlying offense shall be punishable by a term of imprisonment in a county jail for 16 months, or two or three years.

(2) Except as provided in paragraph (3), a felony punishable pursuant to this subdivision shall be punishable by imprisonment in a county jail for the term described in the underlying offense.

(3) Notwithstanding paragraphs (1) and (2), where the defendant has a prior or current felony conviction for a serious felony described in subdivision (c) of Section 1192.7, a violent felony described in subdivision (c) of Section 667.5, is required to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1, or is convicted of a crime and as part of the sentence an enhancement pursuant to Section 186.11 is imposed, an executed sentence for a felony punishable pursuant to this subdivision shall be served in state prison.

(4) Nothing in this subdivision shall be construed to prevent other dispositions authorized by law, including pretrial diversion,

deferred entry of judgment, or an order granting probation pursuant to Section 1203.1.

(5) A judge, when imposing a sentence pursuant to paragraph (1), may order the defendant to serve a term in a county jail for a period not to exceed the maximum possible term of confinement or may impose a sentence which includes a period of county jail time and a period of mandatory probation not to exceed the maximum possible sentence.

(6) The sentencing changes made by the act that added this subdivision shall be applied prospectively to any person sentenced on or after October 1, 2011.

(i) This section shall become operative on January 1, 2012.

SEC. 5. Section 3000.08 of the Penal Code, as amended by Section 38 of Assembly Bill 117 of the 2011–12 Regular Session, is amended to read:

3000.08. (a) Persons released from state prison prior to or on or after July 1, 2013, after serving a prison term or, whose sentence has been deemed served pursuant to Section 2900.5, for any of the following crimes shall be subject to parole supervision by the Department of Corrections and Rehabilitation and the jurisdiction of the court in the county where the parolee is released or resides for the purpose of hearing petitions to revoke parole and impose a term of custody:

(1) A serious felony as described in subdivision (c) of Section 1192.7.

(2) A violent felony as described in subdivision (c) of Section 667.5.

(3) A crime for which the person was sentenced pursuant to paragraph (2) of subdivision (e) of Section 667 or paragraph (2) of subdivision (c) of Section 1170.12.

(4) Any crime where the person eligible for release from prison is classified as a High Risk Sex Offender.

(5) Any crime where the person is required, as a condition of parole, to undergo treatment by the Department of Mental Health pursuant to Section 2962.

(b) Notwithstanding any other provision of law, all other offenders released from prison shall be placed on postrelease supervision pursuant to Title 2.05 (commencing with Section 3450).

(c) At any time during the period of parole of a person subject to this section, if any parole agent or peace officer has probable cause to believe that the parolee is violating any term or condition of his or her parole, the agent or officer may, without warrant or other process and at any time until the final disposition of the case, arrest the person and bring him or her before the parole authority, or the parole authority may, in its discretion, issue a warrant for that person's arrest.

(d) Upon review of the alleged violation and a finding of good cause that the parolee has committed a violation of law or violated his or her conditions of parole, the parole authority may impose additional and appropriate conditions of supervision, including rehabilitation and treatment services and appropriate incentives for compliance, and impose immediate, structured, and intermediate sanctions for parole violations, including flash incarceration in a county jail. Periods of "flash incarceration," as defined in subdivision (e) are encouraged as one method of punishment for violations of a parolee's conditions of parole. Nothing in this section is intended to preclude referrals to a reentry court pursuant to Section 3015.

(e) "Flash incarceration" is a period of detention in county jail due to a violation of a parolee's conditions of parole. The length of the detention period can range between one and 10 consecutive days. Shorter, but if necessary more frequent, periods of detention for violations of a parolee's conditions of parole shall appropriately punish a parolee while preventing the disruption in a work or home establishment that typically arises from longer periods of detention.

(f) If the supervising parole agency has determined, following application of its assessment processes, that intermediate sanctions up to and including flash incarceration are not appropriate, the supervising agency shall petition the revocation hearing officer appointed pursuant to Section 71622.5 of the Government Code in the county in which the parolee is being supervised to revoke parole. At any point during the process initiated pursuant to this section, a parolee may waive, in writing, his or her right to counsel, admit the parole violation, waive a court hearing, and accept the proposed parole modification. The petition shall include a written report that contains additional information regarding the petition, including the relevant terms and conditions of parole, the circumstances of the alleged underlying violation, the history and

background of the parolee, and any recommendations. The Judicial Council shall adopt forms and rules of court to establish uniform statewide procedures to implement this subdivision, including the minimum contents of supervision agency reports. Upon a finding that the person has violated the conditions of parole, the revocation hearing officer shall have authority to do any of the following:

(1) Return the person to parole supervision with modifications of conditions, if appropriate, including a period of incarceration in county jail.

(2) Revoke parole and order the person to confinement in the county jail.

(3) Refer the person to a reentry court pursuant to Section 3015 or other evidence-based program in the court's discretion.

(g) Confinement pursuant to paragraphs (1) and (2) of subdivision (f) shall not exceed a period of 180 days in the county jail.

(h) Notwithstanding any other provision of law, in any case where Section 3000.1 applies to a person who is on parole and there is good cause to believe that the person has committed a violation of law or violated his or her conditions of parole, and there is imposed a period of imprisonment of longer than 30 days, that person shall be remanded to the custody of the Department of Corrections and Rehabilitation and the jurisdiction of the Board of Parole Hearings for the purpose of future parole consideration.

(i) Parolees subject to this section who are being held for a parole violation in a county jail on July 1, 2013, shall be subject to the jurisdiction of the Board of Parole Hearings.

(j) This section shall become operative on July 1, 2013.

SEC. 6. Section 3000.09 of the Penal Code, as amended by Section 39 of Assembly Bill 117 of the 2011–12 Regular Session, is amended to read:

3000.09. (a) Notwithstanding any other law, any parolee who was paroled from state prison prior to October 1, 2011, shall be subject to this section.

(b) Parolees subject to this section shall remain under supervision by the Department of Corrections and Rehabilitation until one of the following occurs:

(1) Jurisdiction over the person is terminated by operation of law.

(2) The supervising agent recommends to the parole authority that the offender be discharged and the parole authority approves the discharge.

(3) The offender, except an offender who if released from prison after October 1, 2011, would be subject to parole based on the criteria identified in subdivision (a) of Section 3000.08, completes six consecutive months of parole without violating their conditions, at which time the supervising agent shall review and make a recommendation on whether to discharge the offender to the parole authority and the parole authority approves the discharge.

(c) Parolees subject to this section who are being held for a parole violation in county jail on October 1, 2011, shall be subject to the jurisdiction of the Board of Parole Hearings and may, upon revocation, be remanded to the state prison. Upon completion of a revocation term, the parolee shall either remain under parole supervision of the department pursuant to Section 3000.08 or shall be placed on postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450).

(d) Any parolee who was paroled prior to October 1, 2011, who commits a violation of parole shall be subject to parole revocation procedures in accordance with the procedures established under Section 3000.08.

SEC. 7. The heading of Title 4.5 (commencing with Section 13600) of Part 4 of the Penal Code, as amended by Section 49 of Senate Bill 92 of the 2011–12 Regular Session, is amended to read:

TITLE 4.5. CORRECTIONS STANDARD AUTHORITY

SEC. 8. The heading of Title 4.5 (commencing with Section 13600) is added to Part 4 of the Penal Code, to read:

TITLE 4.5. COMMISSION ON CORRECTIONAL PEACE OFFICER STANDARDS AND TRAINING

SEC. 9. (a) Section 6 of this act shall remain operative until July 1, 2012.

(b) Section 7 of this act shall become operative on July 1, 2012.

SEC. 10. Section 13600 of the Penal Code, as added by Section 51 of Senate Bill 92 of the 2011–12 Regular Session, is repealed.

SEC. 11. Section 13600 is added to the Penal Code, to read:

13600. (a) Commencing July 1, 2005, any reference to the Commission on Correctional Peace Officer Standards and Training or “CPOST” shall refer to the Corrections Standards Authority established pursuant to Chapter 5 (commencing with Section 6024) of Title 7 of Part 3. As of that date, the Commission on Correctional Peace Officer Standards and Training is abolished.

(b) (1) The Legislature finds and declares that peace officers of the state correctional system, including youth and adult correctional facilities, fulfill responsibilities that require creation and application of sound selection criteria for applicants and standards for their training prior to assuming their duties. For the purposes of this section, correctional peace officers are peace officers as defined in Section 830.5 and employed or designated by the Department of Corrections and Rehabilitation.

(2) The Legislature further finds that sound applicant selection and training are essential to public safety and in carrying out the missions of the Department of Corrections and Rehabilitation in the custody and care of the state’s offender population. The greater degree of professionalism which will result from sound screening criteria and a significant training curriculum will greatly aid the department in maintaining smooth, efficient, and safe operations and effective programs in the department.

(c) The Secretary of the Department of Corrections and Rehabilitation shall, with advice from the Corrections Standards Authority, appoint a subordinate officer to serve as executive director of the board. The subordinate officer shall serve at the pleasure of the secretary. The subordinate officer shall appoint staff as provided for in the annual Budget Act, beginning in the 2005–06 fiscal year.

(d) This section shall be repealed on July 1, 2012.

SEC. 12. Section 13600 is added to the Penal Code, to read:

13600. (a) (1) The Legislature finds and declares that peace officers of the state correctional system, including youth and adult correctional facilities, fulfill responsibilities that require creation and application of sound selection criteria for applicants and standards for their training prior to assuming their duties. For the purposes of this section, correctional peace officers are peace officers as defined in Section 830.5 and employed or designated by the Department of Corrections and Rehabilitation.

(2) The Legislature further finds that sound applicant selection and training are essential to public safety and in carrying out the missions of the Department of Corrections and Rehabilitation in the custody and care of the state's offender population. The greater degree of professionalism which will result from sound screening criteria and a significant training curriculum will greatly aid the department in maintaining smooth, efficient, and safe operations and effective programs.

(b) There is within the Department of Corrections and Rehabilitation a Commission on Correctional Peace Officer Standards and Training, hereafter referred to, for purposes of this title, as the CPOST.

(c) (1) The executive board of the CPOST shall be composed of six voting members.

(A) Three members from, appointed by, and representing the management of, the Department of Corrections and Rehabilitation, one of whom shall represent the Division of Juvenile Facilities.

(B) Three members from, and appointed by the Governor upon recommendation by, and representing the membership of, the California Correctional Peace Officers' Association. Two members shall be rank-and-file persons from State Bargaining Unit 6 and one member shall be supervisory.

(C) Appointments shall be for four years.

(D) Promotion of a member of the CPOST shall invalidate the appointment of that member and shall require the recommendation and appointment of a new member if the member was appointed from rank and file or from supervisory personnel and promoted out of his or her respective rank and file or supervisory position during his or her term on the CPOST.

(2) Each appointing authority shall appoint one alternate member for each regular member who it appoints pursuant to paragraph (1). Every alternate member shall possess the same qualifications as the regular member and shall substitute for, and vote in place of, the regular member whenever he or she is absent.

(d) The rules for voting on the executive board of the CPOST shall be as follows:

(1) Decisions shall be made by a majority vote.

(2) Proxy voting shall not be permitted.

(3) Tentative approval of a decision by the CPOST may be taken by a telephone vote. The CPOST members' decision shall be

documented in writing and submitted to the CPOST for confirmation at the next scheduled CPOST meeting so as to become a part of the permanent record.

(e) The executive board of the CPOST shall adopt rules as it deems necessary for efficient operations, including, but not limited to, the appointment of advisory members for forming whatever committees it deems necessary to conduct its business. These rules shall be in conformance with the State Personnel Board rules and regulations, the Department of Personnel Administration rules and regulations, and the provisions of the State Bargaining Unit 6 memorandum of understanding.

(f) The CPOST shall appoint an executive director.

(g) This section shall be operative on July 1, 2012.

SEC. 13. Section 13601 of the Penal Code, as amended by Section 52 of Senate Bill 92 of the 2011–12 Regular Session, is repealed.

SEC. 14. Section 13601 is added to the Penal Code, to read:

13601. (a) The Corrections Standards Authority shall develop, approve, and monitor standards for the selection and training of state correctional peace officer apprentices. Any standard for selection established under this subdivision shall be subject to approval by the State Personnel Board. Using the psychological and screening standards established by the State Personnel Board, the State Personnel Board or the Department of Corrections and Rehabilitation, Division of Juvenile Facilities shall ensure that, prior to training, each applicant who has otherwise qualified in all physical and other testing requirements to be a peace officer in either a youth or adult correctional facility, is determined to be free from emotional or mental conditions that might adversely affect the exercise of his or her duties and powers as a peace officer.

(b) The authority may approve standards for a course in the carrying and use of firearms for correctional peace officers that is different from that prescribed pursuant to Section 832. The standards shall take into consideration the different circumstances presented within the institutional setting from that presented to other law enforcement agencies outside the correctional setting.

(c) Notwithstanding Section 3078 of the Labor Code, the length of the probationary period for correctional peace officer apprentices shall be determined by the authority subject to approval by the

State Personnel Board, pursuant to Section 19170 of the Government Code.

(d) The authority shall develop, approve, and monitor standards for advanced rank-and-file and supervisory state correctional peace officer and training programs for the Department of Corrections and Rehabilitation. When a correctional peace officer is promoted within the department, he or she shall be provided with and be required to complete these secondary training experiences.

(e) The authority shall develop, approve, and monitor standards for the training of state correctional peace officers in the department in the handling of stress associated with their duties.

(f) Toward the accomplishment of the objectives of this act, the authority may confer with, and may avail itself of the assistance and recommendations of, other state and local agencies, boards, or commissions.

(g) Notwithstanding the authority of the authority, the department shall design and deliver training programs, shall conduct validation studies, and shall provide program support. The authority shall monitor program compliance by the department.

(h) The authority may disapprove any training courses created by the department pursuant to the standards developed by the authority if it determines that the courses do not meet the prescribed standards.

(i) The authority shall annually submit an estimate of costs to conduct those inquiries and audits as may be necessary to determine whether the department and each of its institutions and parole regions are adhering to the standards developed by the authority, and shall conduct those inquiries and audits consistent with the annual Budget Act.

(j) The authority shall establish and implement procedures for reviewing and issuing decisions concerning complaints or recommendations from interested parties regarding authority rules, regulations, standards, or decisions.

(k) This section shall be repealed on July 1, 2012.

SEC. 15. Section 13601 is added to the Penal Code, to read:

13601. (a) The CPOST shall develop, approve, and monitor standards for the selection and training of state correctional peace officer apprentices. Any standard for selection established under this subdivision shall be subject to approval by the State Personnel Board. Using the psychological and screening standards established

by the State Personnel Board, the State Personnel Board or the Department of Corrections and Rehabilitation shall ensure that, prior to training, each applicant who has otherwise qualified in all physical and other testing requirements to be a peace officer in either a youth or adult correctional facility, is determined to be free from emotional or mental conditions that might adversely affect the exercise of his or her duties and powers as a peace officer.

(b) The CPOST may approve standards for a course in the carrying and use of firearms for correctional peace officers that is different from that prescribed pursuant to Section 832. The standards shall take into consideration the different circumstances presented within the institutional setting from that presented to other law enforcement agencies outside the correctional setting.

(c) Notwithstanding Section 3078 of the Labor Code, the length of the probationary period for correctional peace officer apprentices shall be determined by the CPOST subject to approval by the State Personnel Board, pursuant to Section 19170 of the Government Code.

(d) The CPOST shall develop, approve, and monitor standards for advanced rank-and-file and supervisory state correctional peace officer and training programs for the Department of Corrections and Rehabilitation. When a correctional peace officer is promoted within the department, he or she shall be provided with and be required to complete these secondary training experiences.

(e) The CPOST shall develop, approve, and monitor standards for the training of state correctional peace officers in the department in the handling of stress associated with their duties.

(f) Toward the accomplishment of the objectives of this act, the CPOST may confer with, and may avail itself of the assistance and recommendations of, other state and local agencies, boards, or commissions.

(g) Notwithstanding the authority of the CPOST, the department shall design and deliver training programs, shall conduct validation studies, and shall provide program support. The CPOST shall monitor program compliance by the department.

(h) The CPOST may disapprove any training courses created by the department pursuant to the standards developed by CPOST if it determines that the courses do not meet the prescribed standards.

(i) The CPOST shall annually submit an estimate of costs to conduct those inquiries and audits as may be necessary to determine whether the department and each of its institutions and parole regions are adhering to the standards developed by the CPOST, and shall conduct those inquiries and audits consistent with the annual Budget Act.

(j) The CPOST shall establish and implement procedures for reviewing and issuing decisions concerning complaints or recommendations from interested parties regarding the CPOST rules, regulations, standards, or decisions.

(k) This section shall become operative July 1, 2012.

SEC. 16. Section 13602 of the Penal Code, as amended by Section 53 of Senate Bill 92 of the 2011–12 Regular Session, is repealed.

SEC. 17. Section 13602 is added to the Penal Code, to read:

13602. (a) The Department of Corrections and Rehabilitation may use the training academy at Galt or the training center in Stockton. The academy at Galt shall be known as the Richard A. McGee Academy. The training divisions, in using the funds, shall endeavor to minimize costs of administration so that a maximum amount of the funds will be used for providing training and support to correctional peace officers while being trained by the department.

(b) Each new cadet who attends an academy shall complete the course of training, pursuant to standards approved by the Corrections Standards Authority before he or she may be assigned to a post or job as a peace officer. Every newly appointed first-line or second-line supervisor in the Department of Corrections and Rehabilitation shall complete the course of training, pursuant to standards approved by the authority for that position.

(c) The Department of Corrections and Rehabilitation shall make every effort to provide training prior to commencement of supervisory duties. If this training is not completed within six months of appointment to that position, any first-line or second-line supervisor shall not perform supervisory duties until the training is completed.

(d) This section shall be repealed on July 1, 2012.

SEC. 18. Section 13602 is added to the Penal Code, to read:

13602. (a) The Department of Corrections and Rehabilitation may use the training academy at Galt or the training center in

Stockton. The academy at Galt shall be known as the Richard A. McGee Academy. The training divisions, in using the funds, shall endeavor to minimize costs of administration so that a maximum amount of the funds will be used for providing training and support to correctional peace officers while being trained by the department.

(b) Each new cadet who attends an academy shall complete the course of training, pursuant to standards approved by the CPOST before he or she may be assigned to a post or job as a peace officer. Every newly appointed first-line or second-line supervisor in the Department of Corrections and Rehabilitation shall complete the course of training, pursuant to standards approved by the CPOST for that position.

(c) The Department of Corrections and Rehabilitation shall make every effort to provide training prior to commencement of supervisory duties. If this training is not completed within six months of appointment to that position, any first-line or second-line supervisor shall not perform supervisory duties until the training is completed.

(d) This section shall become operative July 1, 2012.

SEC. 19. Section 13603 of the Penal Code, as amended by Section 54 of Senate Bill 92 of the 2011–12 Regular Session, is repealed.

SEC. 20. Section 13603 is added to the Penal Code, to read:

13603. (a) The Department of Corrections and Rehabilitation shall provide 16 weeks of training to each correctional peace officer cadet. Except as provided by subdivision (b), this training shall be completed by the cadet prior to his or her assignment to a post or position as a correctional peace officer.

(b) If an agreement is reached between the department and the bargaining unit for the correctional peace officers that this subdivision shall apply, and with the approval of the Corrections Standards Authority on how to implement the on-the-job training requirements of this subdivision, the department shall provide a total of 16 weeks of training to each correctional peace officer cadet as follows:

(1) Twelve weeks of the training shall be at the department's training academy. Cadets shall be sworn in as correctional peace officers upon the completion of this initial 12 weeks.

(2) Four weeks shall be at the institution where the cadet is assigned to a post or position.

(c) The department shall provide a minimum of two weeks of training to each newly appointed first-line supervisor.

(d) Training standards previously established pursuant to this section shall remain in effect until training requirements are established by the Corrections Standards Authority pursuant to Section 13602.

(e) This section shall be repealed on July 1, 2012.

SEC. 21. Section 13603 is added to the Penal Code, to read:

13603. (a) The Department of Corrections and Rehabilitation shall provide 16 weeks of training to each correctional peace officer cadet. Except as provided by subdivision (b), this training shall be completed by the cadet prior to his or her assignment to a post or position as a correctional peace officer.

(b) If an agreement is reached between the department and the bargaining unit for the correctional peace officers that this subdivision shall apply, and with the approval of the CPOST on how to implement the on-the-job training requirements of this subdivision, the department shall provide a total of 16 weeks of training to each correctional peace officer cadet as follows:

(1) Twelve weeks of the training shall be at the department's training academy. Cadets shall be sworn in as correctional peace officers upon the completion of this initial 12 weeks.

(2) Four weeks shall be at the institution where the cadet is assigned to a post or position.

(c) The department shall provide a minimum of two weeks of training to each newly appointed first-line supervisor.

(d) Training standards previously established pursuant to this section shall remain in effect until training requirements are established by the CPOST pursuant to Section 13602.

(e) This section shall become operative July 1, 2012.

SEC. 22. Section 13800 of the Penal Code, as amended by Section 55 of Senate Bill 92 of the 2011–12 Regular Session, is repealed.

SEC. 23. Section 13800 is added to the Penal Code, to read:

13800. Unless otherwise required by context, as used in this title:

(a) "Agency" means the California Emergency Management Agency.

(b) “Council” means the California Council on Criminal Justice.

(c) “Federal acts” means the federal Omnibus Crime Control and Safe Streets Act of 1968, the federal Juvenile Delinquency Prevention and Control Act of 1968, and any act or acts amendatory or supplemental thereto.

(d) “Local boards” means local criminal justice planning boards.

(e) “Secretary” means the Secretary of Emergency Management.

(f) This section shall be repealed on July 1, 2012.

SEC. 24. Section 13800 is added to the Penal Code, to read:

13800. Unless otherwise required by context, as used in this title, on and after July 1, 2012:

(a) “Agency” means the Board of State and Community Corrections.

(b) “Board” means the Board of State and Community Corrections.

(c) “Federal acts” means the federal Omnibus Crime Control and Safe Streets Act of 1968, the federal Juvenile Delinquency Prevention and Control Act of 1968, and any act or acts amendatory or supplemental thereto.

(d) “Local boards” means local criminal justice planning boards.

(e) “Executive director” means the Executive Director of the Board of State and Community Corrections.

(f) This section shall become operative on July 1, 2012.

SEC. 25. Section 13810 is added to the Penal Code, to read:

13810. (a) There is hereby created in the state government the California Council on Criminal Justice, which shall be composed of the following members: the Attorney General; the Administrative Director of the Courts; 19 members appointed by the Governor, including the Commissioner of the Department of the Highway Patrol, the Secretary of the Department of Corrections and Rehabilitation, or his or her designee, a subordinate officer of the Secretary of Corrections and Rehabilitation, and the State Public Defender; eight members appointed by the Senate Committee on Rules; and eight members appointed by the Speaker of the Assembly.

(b) (1) The remaining appointees of the Governor shall include different persons from each of the following categories: a district attorney, a sheriff, a county public defender, a county probation officer, a member of a city council, a member of a county board of supervisors, a faculty member of a college or university qualified

in the field of criminology, police science, or law, a person qualified in the field of criminal justice research and six private citizens, including a representative of a citizens, professional, or community organization.

(2) The Senate Committee on Rules shall include among its appointments different persons from each of the following categories: a member of the Senate Committee on Public Safety, a representative of the counties, a representative of the cities, a judge designated by the Judicial Council, and four private citizens, including a representative of a citizens, professional, or community organization.

(3) The Speaker of the Assembly shall include among his or her appointments different persons from each of the following categories: a representative of the counties, a representative of the cities, a member of the Assembly Committee on Public Safety, a chief of police, a peace officer, and three private citizens, including a representative of a citizens, professional, or community organization directly related to delinquency prevention.

(c) The Governor shall select a chairperson from among the members of the council.

(d) This section shall be repealed on January 1, 2012.

SEC. 26. Section 13811 is added to the Penal Code, to read:

13811. (a) The council shall meet no more than 12 times per year.

(b) The council may create subcommittees of its own membership and each subcommittee shall meet as often as the subcommittee members find necessary. It is the intent of the Legislature that all council members shall actively participate in all council deliberations required by this chapter. Any member who misses three consecutive meetings or who attends less than 50 percent of the council's regularly called meetings in any calendar year for any cause except severe temporary illness or injury shall be automatically removed from the council.

(c) This section shall be repealed on January 1, 2012.

SEC. 27. Section 13812 of the Penal Code, as amended by Section 58 of Senate Bill 92 of the 2011–12 Regular Session, is repealed.

SEC. 28. Section 13812 is added to the Penal Code, to read:

13812. (a) Members of the council shall receive no compensation for their services but shall be reimbursed for their

expenses actually and necessarily incurred by them in the performance of their duties under this title. No compensation or expenses shall be received by the members of any continuing task forces, review committees or other auxiliary bodies created by the council who are not council members, except that persons requested to appear before the council with regard to specific topics on one or more occasions shall be reimbursed for the travel expenses necessarily incurred in fulfilling those requests.

(b) The Advisory Committee on Juvenile Justice and Delinquency Prevention appointed by the Governor pursuant to federal law may be reimbursed by the agency or agencies designated by the Director of Finance pursuant to Section 13820 for expenses necessarily incurred by the members. Staff support for the committee will be provided by the agency or agencies designated by the Director of Finance pursuant to Section 13820.

(c) This section shall be repealed on January 1, 2012.

SEC. 29. Section 13812 is added to the Penal Code, to read:

13812. (a) The Advisory Committee on Juvenile Justice and Delinquency Prevention appointed by the Governor pursuant to federal law may be reimbursed by the agency or agencies designated by the Director of Finance pursuant to Section 13820 for expenses necessarily incurred by the members. Staff support for the committee will be provided by the agency or agencies designated by the Director of Finance pursuant to Section 13820.

(b) This section shall become operative January 1, 2012.

SEC. 30. Section 13813 is added to the Penal Code, to read:

13813. (a) The council shall act as the supervisory board of the state planning agency pursuant to federal acts. It shall annually review and approve, or review, revise and approve, the comprehensive state plan for the improvement of criminal justice and delinquency prevention activities throughout the state, shall establish priorities for the use of such funds as are available pursuant to federal acts, and shall approve the expenditure of all funds pursuant to such plans or federal acts; provided that the approval of such expenditures may be granted to single projects or to groups of projects.

(b) This section shall be repealed on January 1, 2012.

SEC. 31. Section 1731.5 of the Welfare and Institutions Code, as amended by Section 620 of Chapter 15 of the Statutes of 2011, is amended to read:

1731.5. (a) After certification to the Governor as provided in this article, a court may commit to the Division of Juvenile Facilities any person who meets all of the following:

(1) Is convicted of an offense described in subdivision (b) of Section 707 or subdivision (c) of Section 290.008 of the Penal Code.

(2) Is found to be less than 21 years of age at the time of apprehension.

(3) Is not sentenced to death, imprisonment for life, with or without the possibility of parole, whether or not pursuant to Section 190 of the Penal Code, imprisonment for 90 days or less, or the payment of a fine, or after having been directed to pay a fine, defaults in the payment thereof, and is subject to imprisonment for more than 90 days under the judgment.

(4) Is not granted probation, or was granted probation and that probation is revoked and terminated.

(b) The Division of Juvenile Facilities shall accept a person committed to it pursuant to this article if it believes that the person can be materially benefitted by its reformatory and educational discipline, and if it has adequate facilities to provide that care.

(c) Any person under 18 years of age who is not committed to the division pursuant to this section may be transferred to the authority by the Secretary of the Department of Corrections and Rehabilitation with the approval of the Chief Deputy Secretary for the Division of Juvenile Justice. In sentencing a person under 18 years of age, the court may order that the person shall be transferred to the custody of the Division of Juvenile Facilities pursuant to this subdivision. If the court makes this order and the division fails to accept custody of the person, the person shall be returned to court for resentencing. The transfer shall be solely for the purposes of housing the inmate, allowing participation in the programs available at the institution by the inmate, and allowing division parole supervision of the inmate, who, in all other aspects shall be deemed to be committed to the Department of Corrections and Rehabilitation and shall remain subject to the jurisdiction of the Secretary of the Department of Corrections and Rehabilitation and the Board of Parole Hearings. Notwithstanding subdivision (b) of Section 2900 of the Penal Code, the secretary, with the concurrence of the chief deputy secretary, may designate a facility under the

jurisdiction of the chief deputy secretary as a place of reception for any person described in this subdivision.

The chief deputy secretary shall have the same powers with respect to an inmate transferred pursuant to this subdivision as if the inmate had been committed or transferred to the Division of Juvenile Facilities either under the Arnold-Kennick Juvenile Court Law or subdivision (a).

The duration of the transfer shall extend until any of the following occurs:

(1) The chief deputy secretary orders the inmate returned to the Department of Corrections and Rehabilitation.

(2) The inmate is ordered discharged by the Board of Parole Hearings.

(3) The inmate reaches 18 years of age. However, if the inmate's period of incarceration would be completed on or before the inmate's 21st birthday, the chief deputy secretary may continue to house the inmate until the period of incarceration is completed.

SEC. 32. Section 83 of Senate Bill 92 of the 2011–12 Regular Session, is amended to read:

Sec. 83. (a) Sections 1 to 15, inclusive, and Sections 18, 22, and 65 to 70, inclusive, of this act shall be operative on January 1, 2012. Sections 30 to 34, inclusive, and 60 to 64, inclusive, of this act shall be operative on July 1, 2012.

(b) Sections 29.5, 71 to 74, inclusive, and Sections 80 and 81 shall be operative on the date that the act adding this subdivision is operative.

SEC. 33. Section 69 of Assembly Bill 117 of the 2011–12 Regular Session, is amended to read:

Sec. 69. (a) Except as described in subdivisions (b) and (c), this act shall only become operative no earlier than July 1, 2011, and only if Chapter 15 of the Statutes of 2011 becomes operative.

(b) On or before August 1, 2011, county agencies designated to supervise inmates to be released to postrelease supervision shall notify the Department of Corrections and Rehabilitation that the county agencies have been designated as the local entity responsible for providing that supervision. The requirements of this subdivision shall take effect immediately.

(c) Notwithstanding subdivision (a), Sections 32 and 33 shall become operative on the date the act adding this subdivision becomes operative.

SEC. 34. An amount of \$1,000 is provided to the Department of Corrections and Rehabilitation for the purpose of state operations in the 2011–12 fiscal year, payable from the General Fund.

SEC. 35. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

Approved _____, 2011

Governor